

REMARKS

The Office Action, mailed January 2, 2008 (hereinafter, "Office Action"), has been reviewed and the Examiner's comments considered. Applicant notes with appreciation the withdrawal of the rejection under 35 U.S.C. § 102 of independent claims 42 and 50. Claims 42, 46, and 50-51 are pending in this application. Claim 50 is amended herein. No new matter or issues have been introduced.

Claim Rejections - 35 U.S.C. § 112

Claim 50 stands rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Office Action indicates that the term "highly crystalline" renders the claim indefinite. Applicant notes that the term "highly crystalline" is used throughout the specification as originally filed in conjunction with the porous PTFE material described and therefore has a definite meaning within the context of the specification. Nevertheless, in the interest of compact prosecution, Applicant has deleted this term and therefore respectfully requests withdrawal of this rejection.

Claim Rejections - 35 U.S.C. § 103

Claims 42 and 50 stand rejected under 35 USC § 103(a) as being unpatentable over USPN 5,321,109 to Bosse et al. or USPN 5,468,138 to Bosse et al. (collectively, "Bosse"). Applicant respectfully traverses this rejection.

This application was filed on February 5, 2004 with a Preliminary Amendment, in which a statement of common ownership was made with respect to Bosse, thereby disqualifying Bosse as prior art under 35 U.S.C. § 103 against the claimed invention. Accordingly, Applicant respectfully requests favorable reconsideration and withdrawal of this rejection under 35 U.S.C. § 103.

Claims 50 and 51 stand rejected under 35 USC § 103(a) as being unpatentable over USPN 5,632,771 to Boatman et al. (hereinafter, "Boatman"). Applicant respectfully traverses this rejection.

The Office Action alleges that Boatman teaches the claimed product, except that Boatman fails to teach a radial expansion ratio of 1.0. However, Boatman is directed to a stent formed from a sheet of biocompatible material, preferably stainless steel. (See, e.g., Boatman, col. 7:10-14). The only disclosure of polytetrafluoroethylene in Boatman is found in a discussion of a potential coating material to aid in expansion of the stent through the lowering of the stent surface's coefficient of friction. (See, Boatman, col. 3:2-9 and col. 9:20-31). Thus, Boatman clearly does not show or describe a "pre-dilated tube that is sintered to form a contracted tube with a radial expansion ratio of about 1.0" as recited in independent claim 50. Therefore, a *prima facie* case of obviousness is not established at least because all of the claimed limitations are not taught or suggested by the relied upon art. Accordingly, Applicant submits that independent claim 50 and dependent claim 51 are patentable over Boatman and respectfully requests favorable reconsideration and withdrawal of this rejection under 35 U.S.C. § 103.

Claims 46 and 51 stand rejected under 35 USC § 103(a) as being unpatentable over Bosse in view of USP 5,618,300 to Marin et al. Applicant respectfully traverses this rejection.

Without conceding the propriety of the asserted combination, in view of the above, Applicant submits that claims 46 and 51 depend from patentable independent claims 42 and 50, respectively, and are therefore patentable. Accordingly, Applicant respectfully requests favorable reconsideration and withdrawal of this rejection under 35 U.S.C. § 103.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection

with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 297912002103. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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